

[J-5-2013][O.A.J.C. – McCaffery, J.]
IN THE SUPREME COURT OF PENNSYLVANIA
EASTERN DISTRICT

COMMONWEALTH OF PENNSYLVANIA,	:	No. 26 EAP 2012
	:	
Appellant	:	Appeal from the Judgment of Superior
	:	Court entered on 9/27/11 at No. 3080
	:	EDA 2010 reversing and remanding the
v.	:	order entered on 9/28/10 in the Court of
	:	Common Pleas, Philadelphia County,
	:	Criminal Division at No. MC-51-CR-
	:	0002245-2010
SHIEM GARY,	:	
	:	
Appellee	:	ARGUED: March 5, 2013

CONCURRING OPINION

MR. JUSTICE SAYLOR

DECIDED: April 29, 2014

As reflected in the lead opinion, this Court has obviously had difficulty for quite some time in managing the appropriate contours of the automobile exception to the warrant requirement. Although I have some reservations, for the sake of certainty and consistency, I join the lead Justices in adopting the federal automobile exception.

I do wish to observe, however, that I find inconsistency in the courts' rejection of bright-line rules restraining law enforcement as a means of protecting individual rights,¹

¹ See, e.g., Commonwealth v. Revere, 585 Pa. 262, 281, 888 A.2d 694, 707 (2005) (quoting the United States Supreme Court for the proposition that “we have consistently eschewed bright-line rules [in the Fourth Amendment context], instead emphasizing the fact-specific nature of the reasonableness inquiry” (citation omitted)); Commonwealth v. Perez, 577 Pa. 360, 845 A.2d 779 (2004) (overruling previous decisions which had implemented a 6-hour rule governing the admissibility of pre-arraignment confessions, (continued...))

while simultaneously embracing such rules when they facilitate law enforcement, see OAJC, slip op. at 37, 60. For my own part, I believe there would be benefit in maintaining some clear and appropriate boundaries operating in both directions. Accord Perez, 577 Pa. at 381-82, 845 A.2d at 792 (Saylor, J., concurring and dissenting) (concurring in the abandonment of one such bright-line rule protective of defendants' rights only because it had been consistently undermined by exceptions).

(...continued)

inter alia, as a means of protecting defendants' rights to be free from unreasonable seizure of their persons).